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ASSEMBLY OF THE AFRICAN UNION

Thirteenth Ordinary Session

1-3 July 2009

Sirte, Libya

Assembly/AU/12(XIII) Rev. 1

PROGRESS REPORT ON THE IMPLEMENTATION OF ASSEMBLY DECISION 240 (XII) ON THE HISSENE HABRE CASE

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OF ASSEMBLY DECISION 240 (XII)
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I. INTRODUCTION

1. By decision Assembly/AU/Dec.240 (XII) on the Hissene Habre case adopted in February 2009 in Addis Ababa (Ethiopia), the Assembly of the African Union agreed, *inter alia*, as follows:

“4. CONSIDERS that the final budget of the case should be prepared and adopted by the African Union, in conjunction with the Government of the Republic of Senegal and the European Union;

5. CALLS ON all Member States of the African Union, the European Union and partner countries and institutions to make their contributions to the budget of the case by paying these contributions directly to the African Union Commission;

6. REQUESTS the Commission to report on the status of execution of this Decision to the 13th Assembly of the African Union.”

2. This report presents the status of the implementation of the above mentioned Assembly decision.

II. ACTIONS TAKEN TO IMPLEMENT ASSEMBLY DECISION

3. The decision of the Assembly requested, *inter alia*, that the final budget of the Hissene Habre case should be prepared and adopted by the African Union, in conjunction with the Government of the Republic of Senegal and the European Union. It further requested the Commission to report on the status of implementation of this decision to the 13th Ordinary Session of the Assembly scheduled for July 2009.

4. In implementation of the above decision, the Commission undertook the following actions:

a) Preparation and adoption of the estimated budget of the Hissene Habre trial

5. The Special Representative of the Chairperson of the Commission for the Hissene Habre case, Mr. Robert Dossou, who is a former Foreign Minister and currently President of the Constitutional Court of Benin, undertook a mission to Dakar from 12 to 16 March 2009, accompanied by an officer from the Commission, in order to assess

actions already undertaken by the Government of Senegal, and to identify ways/areas where the Commission can assist the Government of Senegal to accelerate the implementation of the Assembly Decision.

6. During this mission, the Special Representative met with the President of the Republic of Senegal and other Senegalese high officials in charge of the Hissene Habre case as well as representatives of Development Partners including European Union. The Report of the mission underlines particularly the commitment demonstrated by all those concerned and by the President of the Republic of Senegal personally and his Government, as well as the positive signals by the Partners that we are on the right track in ensuring that Senegal will live up to the challenge of trying the case of Mr. Hissene Habre.

7. At the end of this mission, the Special Representative made appropriate recommendations that were endorsed by the Commission. Based on these recommendations, a delegation of the AU Commission, led by the Special Representative for the Hissene Habre case accompanied by other relevant officials of the Commission, undertook a second mission to Dakar from 4 to 12 June 2009;

8. During this second mission, the Representatives of the Government of Senegal and the AU Commission considered the draft budget of the trial line by line and agreed, inter alia, on the following principles:

- i. The estimated budget of the trial shall comprise investment and functioning budget;
- ii. The duration of the trial was reduced from five (5) years to three (3) years;
- iii. The number of witnesses was reduced from five hundred (500) to three hundred (300);
- iv. The reduction of the cost of the renovation of the building which should host the trial;
- v. The reduction of the number of missions of the investigators to Chad;
- vi. The reduction of the new cars to be bought for the trial;
- vii. The budget of the trial should not include duties that should constitute the contribution of the Government of Senegal to the funding of the trial.

9. On the basis of the above principles and in implementing of the Assembly Decision, the Commission prepared and finalized the estimated draft budget of the Hissene Habre trial, in conjunction with the representatives of the Government of Senegal.

10. Following this exercise, the total amount of the estimated draft budget was fixed at FCFA 7,635,972,600 or equivalent to US\$ 16,273,933. The final draft budget has been formally submitted to the authorities of Senegal and AU Commission.

b) Actions taken in respect of the Member States

11. In implementation of the Assembly decision, voluntary contributions were sought from all Member States to the budget of the trial in accordance with the Assembly decision paragraph 5 by note verbale referenced BC/OLC/90.1/13.62.09 dated on 26 March 2009. Unfortunately, up to the time of reporting, no positive reaction from Member States had been received by the Commission.

c) Actions taken in respect of the European Union

12. The matter was, among others, discussed at the 12th AU-EU Ministerial Troika meeting held in Luxembourg on 28 April 2009, during which the Ministers took note of the decision adopted by the Assembly in February 2009 concerning the trial of former Chadian President Hissene Habre. In the same vein, the Troika underlined the need for the Senegalese Authorities and the African Union to elaborate the final budget of the trial as soon as possible in close coordination with the EU.

III. WAY FORWARD

13. Upon the confirmation of the estimated budget of the trial, it is envisaged to organize a round table of Donors in last quarter of 2009 in Dakar, Senegal. The purpose of the Round Table will be the mobilization of the resources for funding of the Hissene Habre trial. This proposal was already approved by the President of the Republic of Senegal, H.E Mr. Abdoulaye Wade during his meeting with the Special Representative in March 2009.

14. Additionally, a joint mission comprising the Representatives of the AU Commission and the Government of Senegal will be undertaken to Chad in order to consider the ways/areas of judicial cooperation between Senegal and Chad within the framework of the organization of the Hissene Habre trial.

IV. CONCLUSIONS/RECOMMENDATIONS

15. The trial of Hissene Habre is a challenge that the AU and its Member States must face in the context of the rejection of impunity, a principle enshrined in Article 4 (o) of the Constitutive Act of the Union. In this regard, Member States, Partner countries and institutions should support the Government of Senegal within the framework of the organization of the said trial.

16. The Commission believes that upon the completion of mobilization of necessary financial resources, the trial would start in view of the fact that the Government of Senegal has already taken the constitutional, legal and other measures to carry out the mandate from the African Union.

17. The Commission makes the following recommendations to the Assembly:

- i. TAKES NOTE of the Progress Report of the Commission on the Implementation of Assembly Decision Assembly/AU/ Dec.240(XII) adopted by the Assembly in Addis Ababa, Ethiopia, in February 2009 on the Hissene Habre case;
- ii. ALSO TAKES NOTE of the final estimated budget of the trial;
- iii. EXPRESSES its regret that in spite of its previous Summit decision calling on all Member States of the African Union to make voluntary contributions to the budget of the Hissene Habre case there has been no positive reactions from Member State;
- iv. REITERATES its appeal to all Member States to contribute to the budget of the trial and extend the necessary support to the Government of Senegal in the execution of the AU mandate to prosecute and try Hissene Habre ;
- v. REQUESTS the Government of Senegal, the AU Commission and Partners, particularly the European Union to consider the possibility of organizing a donors' conference as soon as possible;
- vi. INVITES all partner countries and institutions to support this process and the Donors Round Table that will be organized in this regard in Dakar, Senegal in the last quarter of 2009.
- vii. REQUESTS the Commission to closely monitor the implementation of this decision and to report to the next ordinary session of the Assembly in February 2010.

2009-07-01

Progress report on the implementation of assembly decision 240 (xii) on the Hissene Habre case.

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